

ordered to do so by a court of competent jurisdiction. When information is used in a court proceeding, it usually becomes part of the public record of the proceeding and its confidentiality often cannot be protected in that record. Much of the information that we collect and maintain in our records on individuals is especially sensitive. Therefore, we follow the rules in paragraph (d) of this section in deciding whether we may disclose information in response to an order from a court of competent jurisdiction. When we disclose pursuant to an order from a court of competent jurisdiction, and the order is a matter of public record, the Privacy Act requires us to send a notice of the disclosure to the last known address of the person whose record was disclosed.

(b) *Court.* For purposes of this section, a court is an institution of the judicial branch of the U.S. Federal government consisting of one or more judges who seek to adjudicate disputes and administer justice. (See 404.2(c)(6) of this chapter). Entities not in the judicial branch of the Federal government are not courts for purposes of this section.

(c) *Court order.* For purposes of this section, a court order is any legal process which satisfies all of the following conditions:

- (1) It is issued under the authority of a Federal court;
- (2) A judge or a magistrate judge of that court signs it;
- (3) It commands SSA to disclose information; and
- (4) The court is a court of competent jurisdiction.

(d) *Court of competent jurisdiction.* It is the view of SSA that under the Privacy Act the Federal Government has not waived sovereign immunity, which precludes state court jurisdiction over a Federal agency or official. Therefore, SSA will not honor state court orders as a basis for disclosure. State court orders will be treated in accordance with the other provisions of this part.

(e) *Conditions for disclosure under a court order of competent jurisdiction.* We disclose information in compliance with an order of a court of competent jurisdiction if—

(1) another section of this part specifically allows such disclosure, or

(2) SSA, the Commissioner of Social Security, or any officer or employee of SSA in his or her official capacity is properly a party in the proceeding, or

(3) disclosure of the information is necessary to ensure that an individual who is accused of criminal activity receives due process of law in a criminal proceeding under the jurisdiction of the judicial branch of the Federal government.

(f) *In other circumstances.* We may disclose information to a court of competent jurisdiction in circumstances other than those stated in paragraph (e) of this section. We will make our decision regarding disclosure by balancing the needs of a court while preserving the confidentiality of information. For example, we may disclose information under a court order that restricts the use and redisclosure of the information by the participants in the proceeding; we may offer the information for inspection by the court *in camera* and under seal; or we may arrange for the court to exclude information identifying individuals from that portion of the record of the proceedings that is available to the public. We will make these determinations in accordance with § 401.140.

(g) *Other regulations on request for testimony, subpoenas and production of records in legal proceedings.* See 20 CFR part 403 of this chapter for additional rules covering disclosure of information and records governed by this part and requested in connection with legal proceedings.

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§ 401.185 Other specific recipients.

In addition to disclosures we make under the routine use provision, we also release information to—

(a) The Bureau of the Census for purposes of planning or carrying out a census, survey, or related activity; and

(b) The National Archives of the United States if the record has sufficient historical or other value to warrant its continued preservation by the United States Government. We also disclose a record to the Administrator of General Services for a determination of whether the record has such a value.